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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,903	02/09/2001	James K. Hawley	M 6678 HAMC	3930
423	7590	05/06/2004	EXAMINER	
HENKEL CORPORATION THE TRIAD, SUITE 200 2200 RENAISSANCE BLVD. GULPH MILLS, PA 19406				TRAN, KHOA H
ART UNIT		PAPER NUMBER		
		3634		

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/780,903	HAWLEY, JAMES K.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Khoa Tran	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 January 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/17/03 &amp; 33/04/</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tan in view of Bustos ('288). Tan discloses an anti-skid liner (10) comprising a sufficiently soft and flexible first polymeric resin base (18) made of resilient material that renders the liner non-curling; a plurality of extended ridges (14) extended downwardly from a bottom surface of the first resin and render the liner to be a non-skid liner. See Figure 4. Tan does not teach a plurality of ridges having a lower coefficient of friction than the base. However, Bustos ('288) teaches a plurality of hard extending ridges (8) having high impact styrene and a lower coefficient of friction than the base (6), see the abstract and column 3, lines 19-21. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the resilient base of Tan with the provision of a plurality of hard ridges that has a lower coefficient of friction than the base as taught by Bustos ('288) in order to have a liner that is lower in friction to enable the items place on the liner to be slidably moved on top of the liner. With respect to claim 12, it would have been an obvious matter of engineering design choice as determined through routine experimentation and optimization for one of ordinary skill in the art to routinely dimension the plastic base to be at least 3 shore A

Harder than the second polymeric resin of the compound containing silicone for a particular application thus producing no new and unexpected results.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tan in view of Bustos ('288) as applied to claims 1, 2, 4, 9, and 12 above, and further in view of Schottenfeld. Schottenfeld teaches a liner having a PVC undulating bottom surface (32). See Figures 3 and 4. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the bottom surface of Tan in view of Bustos ('288) to be a PVC undulated bottom as taught by Schottenfeld in order to have an undulating bottom so that to promote the liner to be a non-skid liner.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tan in view of Bustos ('288) as applied to claims 1, 2, 4, 9, and 12 above, and further in view of W. Yates. Yates teaches a liner having an undulating (3) bottom surface. See figure 3. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the base of Tan in view of Bustos ('288) with the provision of an undulating bottom as taught by Yates in order to enable the base to drain liquid between the undulating channels.

Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tan in view of Bustos ('288) as applied to claims 1, 2, 4, 9, and 12 above, and further in view of Eiden. Eiden teaches a plasticized polyvinyl chloride base (11). See Figures 1 and 2. It would have been obvious to one of ordinary skill in the art to modify the base of Tan in view of Bustos ('288) to be a plasticized polyvinyl chloride base as taught by Eiden in order to promote anti-slip surface because it is well within the level of skill of

one of ordinary skill to utilize known material features of the art for the purpose that they are known.

Claims 5-7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tan in view of Bustos ('288) as applied to claims 1, 2, 4, 9, and 12 above, and further in view of Bayless et al. Bayless et al. teach a plurality of bottom extending ridges extended directly underneath and parallel to a plurality of top extending ridges, the top and bottom ridges are straight and parallel with one another and have rounded distal end. See Figure 3. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provided the liner of Tan in view of Bustos ('288) with the provision of top and bottom ridges that are aligned and parallel with one another as taught by Bayless et al. in order to have the load on top of the top ridges to be transmitted directly to the bottom ridges so that to minimizing the flexing and bending of the liner. With respect to the ridges are taking shape of a triangular profile, it should be noted that Bayless et al. also teach the ridges can be made of other shaped such as frustum or pyramid shape and it would have been obvious to one of ordinary skill at the time of the invention was made to provide the modified liner of Tan in view of Bustos ('288) with the provision of ridges that are triangular in shape so that to take play in the application thus producing no new matter or unexpected results.

Claims 1, 2, 4, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tan in view of Vargo. Tan discloses an anti-skid liner (10) comprising a sufficiently soft and flexible first polymeric resin base (18) made of resilient material that renders the liner non-curling; a plurality of extended ridges (14) extended

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downwardly from a bottom surface of the first resin and render the liner to be a non-skid liner. See Figure 4. Tan does not teach a plurality of ridges having a lower coefficient of friction than the base. However, Vargo teaches a plurality of hard ridges (7) that are rigid and incompressible and has a low friction polymeric resin of a silicone-polyester and silicone-alkyd materials coated the ridges so that a liquid comes into contact with the ridges can be repelled and diverted from the ridges. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the resilient base Tan with the provision of a plurality of hard ridges that has a low friction top as taught by Vargo in order to repel and divert liquid from the ridges so that a person's feet may be supported on the ridges without getting wetted by the liquid. With respect to claim 12, it would have been an obvious matter of engineering design choice as determined through routine experimentation and optimization for one of ordinary skill in the art to routinely dimension the plastic base to be at least 3 shore A Harder than the second polymeric resin of the compound containing silicone for a particular application thus producing no new and unexpected results.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tan in view of Vargo as applied to claims 1, 2, 4, 9, and 12 above, and further in view of Schottenfeld. Schottenfeld teaches a liner having a PVC undulating bottom surface (32). See Figures 3 and 4. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the bottom surface of Tan in view of Vargo to be a PVC undulated bottom as taught by Schottenfeld in order to have an undulating bottom so that to promote the liner to be a non-skid liner.

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Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tan in view of Vargo as applied to claims 1, 2, 4, 9, and 12 above, and further in view of W. Yates. Yates teaches a liner having an undulating (3) bottom surface. See figure 3. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the base of Tan in view of Vargo with the provision of an undulating bottom as taught by Yates in order to enable the base to drain liquid between the undulating channels.

Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tan in view of Vargo as applied to claims 1, 2, 4, 9, and 12 above, and further in view of Eiden. Eiden teaches a plasticized polyvinyl chloride base (11). See Figures 1 and 2. It would have been obvious to one of ordinary skill in the art to modify the base of Tan in view of Vargo to be a plasticized polyvinyl chloride base as taught by Eiden in order to promote anti-slip surface because it is well within the level of skill of one of ordinary skill to utilize known material features of the art for the purpose that they are known.

Claims 5-7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tan in view of Vargo as applied to claims 1, 2, 4, 9, and 12 above, and further in view of Bayless et al. Bayless et al. teach a plurality of bottom extending ridges extended directly underneath and parallel to a plurality of top extending ridges, the top and bottom ridges are straight and parallel with one another and have rounded distal end. See Figure 3. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provided the liner of Tan in view of Vargo with the provision of top and bottom ridges that are aligned and parallel with one another as

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taught by Bayless et al. in order to have the load on top of the top ridges to be transmitted directly to the bottom ridges so that to minimizing the flexing and bending of the liner. With respect to the ridges are taking shape of a triangular profile, it should be noted that Bayless et al. also teach the ridges can be made of other shaped such as frustum or pyramid shape and it would have been obvious to one of ordinary skill at the time of the invention was made to provide the modified liner of Tan in view of Vargo with the provision of ridges that are triangular in shape so that to take play in the application thus producing no new matter or unexpected results.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Calkins, E. Brunner, Brodeur, Jr. et al., F. W. Bingell, Kauffman et al., Field, Rzepecki et al., and Balmer et al. are cited to show a liner/mat that has a similar configurations of design to applicant's invention.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new grounds of rejection.

With respect to applicant's arguments on page 2-4 concerning the Section 103 rejection based on Tan in view of Bustos ('288), it appears that applicant is attempting to impart the requirement for the bodily incorporation in parts. In particular, it appears that applicant is alleging the ridges of Bustos ('288) combined with the liner of Tan would not result in a hard ridge with a lower friction surface that requires by the claim. This argument is not found to be persuasive because the test for obviousness is not

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whether the features of reference may be bodily incorporated into the structure of another reference but what the combined teachings of those references would have suggested to those of ordinary skill in the art. In this instant, Tan is a primary reference and Bustos ('288) has been applied for the teaching of a plurality of hard ridges that one skilled in the art would reasonably be expected to draw the teaching therefrom. Further, There is no requirement for a secondary reference to meet every limitation of the claim before it can be utilized.

With respect to applicant's argument that the combination of Tan in view of Bustos ('288) is improper because Tan's reference is preventing slipping and by modifying the reference of Tan with Bustos ('288) would result in a slippery surface that would be unable to use on an icy surface to prevent slipping, this argument is not found to be persuasive because it is the examiner's position that the advanced modification would have been obvious to do so in order to have a liner that has a low friction top and it's not necessary that the modification of the liner has to be used on an icy surface to prevent slipping. Further, it would have been obvious to one of ordinary skill in the art to combine the references for any reason taught by the prior art and not necessarily to be the same as applicant's motivation to combine as long as the motivation to combine produce a reasonable expectation of success that is found in the prior art. Furthermore, it should be noted that the patentability is based on the structural recitations defining the liner and not how it's intended to be used that is to be determined.

With respect to applicant's remarks that the liner of Tan cannot be used as a shelf liner because the bottom extending ridges of Tan are sufficiently hard to penetrate

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the ice surface such that it would mar the surface of the shelf, the examiner respectfully disagrees. In particular, there is nowhere in the specification discloses the bottom ridges of Tan are hard so that to prevent the liner from using on a shelf.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 9:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun, can be reached on (703) 308-2156. The fax phone number for this Group before a final Office action is (703) 872-9306 and after a final Office action is (703) 872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa Tran

April 23, 2004



LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER